

Remarks

I. INTRODUCTION

Prior to entry of this Amendment, claims 1-5, 7-10 and 24- 31 are pending, of which claims 1-3, 8, 10 and 24-31 are rejected and claims 4, 5, 7 and 9 objected to in the Office action. In response to the Office action, claims 1 and 24 are being amended to more patentably distinguish over the cited art. Additionally, this Amendment adds new claims 32-35, each including the previously-indicated allowable subject matter of claims 4, 5, 7 and 9, now rewritten in independent form. Following entry of this Amendment, claims 1-5, 7-10 and 24-35 will be pending for the Examiner's consideration.

II. OFFICE ACTION SUMMARY

In the Office action, claims 1 – 3 and 10 are rejected under 35 U.S.C. § 102(b) as being unpatentable over *Altman* (Altman, Kaeli, Sheffer; "Welcome to the opportunities of Binary Translation", March 2000, IEEE Computer). Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Altman* in view of *Wall* (Wall; "Global Register Allocation at Link Time", October 28 1996, www.hpl.hp.com/techreports/Compaq-DEEC/WRL-86-3.html). Claim 24 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Altman* and alleged common knowledge in the art. Claim 25 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Altman* and alleged common knowledge in the art, as applied to claim 24, and further in view of *Conte* (Conte, Patel, Cox; "Using Branch Handling Hardware to Support Profile-Driven Optimization", 1994, Proceedings of the 1994 27th Annual International Symposium on Microarchitecture). Claims 26 and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Altman* and alleged common knowledge in the art. Claims 28 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Altman* and alleged common knowledge in the art, as applied to claim 24, and further in view of *Wall*. Claim 30 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Altman* and alleged common knowledge in the art, as applied to claim 26, and further in view of *Wall*. Claim 31 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Altman* and alleged common knowledge in the art, as applied to claim 24 above, and further in view of *Conte*.

In the Office action, the Examiner objected to claims 4, 5, 7 and 9, indicating that each would be allowable if rewritten in independent form. Applicant gratefully thanks the Examiner for this indication of allowable subject matter.

III. INDEPENDENT CLAIMS 1 AND 24

In the Office action, the Examiner (1) generally refers to arguments made in response to the first Office action, which distinguished the present invention based on a hardware requirement and (2) repeatedly notes that independent claims 1 and 24 do not so recite. In response, and in an effort to expedite the successful resolution of this case, applicant has amended each of independent claims 1 and 24 to recite, in pertinent part, “changing hardware of the computer system ...” (Emphasis added). Applicant respectfully submits that *Altman*, whether taken singly or in combination with the other art of record, fails to disclose or suggest “changing hardware of [a] computer system,” contrary to the requirements of independent claims 1 and 24. (Emphasis added).

Thus, applicant respectfully submits that, at least for this reason, independent claims 1 and 24, as well as all claims dependent thereon, are in condition for allowance. Applicant therefore respectfully solicits allowance of pending claims 1-5, 7-10 and 24-31.

IV. INDEPENDENT CLAIMS 32-35

Independent claims 32-35 correspond, respectively, with claims 4, 5, 7 and 9, previously indicated as being allowable if rewritten in independent form, as now presented. Thus, applicant respectfully submits that claims 32-35 are in condition for allowance and solicits allowance thereof.

V. CONCLUSION


Reconsideration is respectfully requested. Applicant believes the case is in condition for allowance and respectfully requests withdrawal of the rejections and allowance of the pending claims.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to **Deposit Account No. 19-3878**.

The Examiner is invited to telephone the undersigned at the telephone number listed below if it would in any way advance prosecution of this case.

Respectfully submitted,

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